



# CITY OF BRUNSWICK

1 W. Potomac Street • Brunswick, Maryland 21716 • (301) 834-7500

## **Brunswick Board of Appeals Minutes March 27, 2008**

**Commission Members Present:** Chair Dawn Page, Vice Chair Gary Williams, Secretary Sandy Cole and Barbara Jean Baker, Alternate.

**Mayor & Council Present:** None.

**Staff Present:** City P&Z Administrator Rick Stup, Development Review Planner Jack Whitmore, City Attorney David Severn, and Public Works Administrative Coordinator Jim Castle.

Chair Page called the meeting to order at 7:00 PM.

### **Minutes:**

The minutes for the August 23, 2007 meeting were reviewed and approved (motion by Mr. Williams and seconded by Ms. Page, passed unanimously).

### **Chairman:**

Mr. Stup introduced Ms. Sandy Cole who had been appointed to fill the remaining Term of Patty O'Brien from February 26, 2008–June 30, 2009.

### **Election of Board Officers**

In accordance with the new Bylaws & Procedures, Mr. Stup conducted an election for the vacant seat of Secretary for FY 08.

Mr. Williams nominated Ms. Cole for Secretary, and seconded by Ms. Page. After calls for further nominations, Mr. Stup closed nominations.

**VOTE: Yea 3 Nay 0**

Mr. Stup announced the City of Brunswick Board of Appeals Officers for FY 08:

Ms. Page, Chair  
Mr. Williams, Vice Chair  
Ms. Cole, Secretary

Also, he stated that since there hasn't been much activity requiring BOA meeting, the FY 09 Election and Meeting/Submission Schedule would be on the next agenda unless there

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were any objections. This would eliminate having a meeting just for those two administrative items.

### **Old Business:**

**None.**

### **New Business:**

#### **Zoning – Variance**

**Request for Variance from the Front and Rear Side Yard Setbacks for expansion of the existing Non-Conforming Structure to construct an addition to the Water Treatment Plant, located on the south side of East Potomac Street, West of Fourth Avenue (Tax Map 202, part of Parcel 1012). Zoned I-2, BR-BOA-08-01-V**

Chairman swore in those wishing to testify on the case.

### **Staff Presentation**

Mr. Stup read the case file into the record.

Mr. Whitmore presented the Data Sheet (Copy Attached) to include the following requested Variances:

- Variance of fifteen feet (15') from the twenty-five feet (25') BRL is proposed along the frontage of East Potomac Street
- A forty-five-foot (45') Variance from the fifty feet (50') has been requested from the required setback off of the Rear Lot Line abutting the CSX Railroad.

Mr. Whitmore stated that if the Board is considering the approval of some variance, the following conditions should be considered for that approval:

- Applicant must justify that similar development hardship is not required on other similar cases and that the request is a special requirement for this particular situation.
- Applicant must justify the need for the size of the addition that is proposed or if a smaller addition could be constructed to minimize impacts on the surrounding neighborhood and fit within the required setbacks.

Under Article 24.3.C, a variance may be granted provided that the need justifying the variance is substantial and immediate and not merely for the convenience of the applicant or to increase the dollar value of a property. The applicant must prove that the strict application of the regulation creates a practical difficulty, or specifically that:

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1. Strict compliance with the regulations would prevent the use of the property for a permitted purpose or would render conformance unnecessarily burdensome.
2. A lesser variance than that applied for would not provide adequate relief.
3. Granting the variance would not contradict the purpose and intent of the Zoning Ordinance or compromise the public interest.

### **Applicant:**

Mr. Dan Snyder, Brunswick Crossing LLC - Project Manager for the City, presented their case, and provided answers to some of Data Sheet concerns and Board questions.

**Testimony In Support:** None.

**Testimony In Opposition:** None.

**Rebuttal:** None.

### **Decision**

Mr. Williams made a motion to approve the requested fifteen feet (15') ft. variance from the required twenty-five feet (25') Front Yard Setback stating:

After considering at this public hearing all of the evidence and testimony presented on this Application for a Variance including the Staff Report and Governmental Agency Comments, I make a motion to approve Application #BR-BOA-08-01-V, which is a request for a fifteen feet (15') ft. variance from the required twenty-five feet (25') Front Yard Setback and forty-five feet (45') from the required Rear Yard Setback in the I-2

Zoning District Article 18.7 of the City of Brunswick Zoning Ordinance for proposed expansion of the City of Brunswick Water Treatment Plant at 308 East Potomac Street:

1. Special conditions and circumstances exist which are peculiar to the Property which are not applicable to the other lands or structures in the same zoning district.
2. The literal interpretation of the Zoning Ordinance will deprive the Applicant of rights commonly enjoyed by other properties in the same I-2 Zoning District under the terms of the Zoning Ordinance.
3. The special conditions and circumstances, which exist here, are not the result of actions of the Applicant.
4. Granting the requested Variance will not confer on the Applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.

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5. The granting of the Variance will be in harmony and will not conflict with the purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare or compromise the public interest.
6. The Variance requested is the minimum necessary to afford the adequate relief that the Applicant needs.
7. The need justifying the Variance is substantial and immediate and not merely for the convenience of the Applicant to increase the dollar value of the Property and the strict application of the requirements of the Zoning Ordinance from which the Variance is requested creates a practical difficulty for the Applicant.
8. Requiring the Applicant's strict compliance with the Zoning Ordinance will render such conformance unnecessarily burdensome.

Ms. Cole seconded the motion.

**VOTE: Yea 3 Nay 0**

Mr. Severn specifically reviewed the eight (8) Items with the Board.

Ms. Cole made a motion to approve the requested forty-five foot (45') ft. variance from the required fifty foot (50') Rear Yard Setback stating:

1. Special conditions and circumstances exist which are peculiar to the Property which are not applicable to the other lands or structures in the same zoning district.
2. The literal interpretation of the Zoning Ordinance will deprive the Applicant of rights commonly enjoyed by other properties in the same I-2 Zoning District under the terms of the Zoning Ordinance.
3. The special conditions and circumstances, which exist here, are not the result of actions of the Applicant.
4. Granting the requested Variance will not confer on the Applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.
5. The granting of the Variance will be in harmony and will not conflict with the purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare or compromise the public interest.
6. The Variance requested is the minimum necessary to afford the adequate relief that the Applicant needs.

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7. The need justifying the Variance is substantial and immediate and not merely for the convenience of the Applicant to increase the dollar value of the Property and the strict application of the requirements of the Zoning Ordinance from which the Variance is requested creates a practical difficulty for the Applicant.
8. Requiring the Applicant's strict compliance with the Zoning Ordinance will render such conformance unnecessarily burdensome.

Mr. Williams seconded the motion.

**VOTE: Yea 3 Nay 0**

Mr. Severn specifically reviewed the eight (8) Items with the Board.

**Board Matters:**

Mr. Stup indicated that the next scheduled meeting was April 24, 2008 at 7:00 PM, if the Resolution from the case tonight was drafted and ready for Board action. Also, the Election of Officers for FY 09 and the 2009 Meeting & Submission Schedule will be on the next meeting agenda in case there isn't a need for other meetings in the near future.

**Public Comment:** None.

**Adjournment:**

The meeting was adjourned at 7:30 PM.

Respectfully submitted,

Dawn J. Page, Chair  
Brunswick Board of Appeals